

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

February 28, 2005

Todd D. Rosenberg, Esq.
Michael J. Walsh, Jr., Esq.
O'Melveny & Myers LLP
1625 Eye Street, N.W.
Washington, D.C. 20006-4001

Re: Piedmont Airlines, Inc. Debtor-in-Possession
Pro Forma Assignment of Licenses
Fee Control No. 00000RROG-05-011

Dear Counsel:

This letter responds to your request (dated October 13, 2004) submitted on behalf of Piedmont Airlines, Inc., Debtor-in-Possession (Piedmont DIP) for a waiver of the application fees in connection with the pro forma assignment of wireless licenses used in its operations as a commercial airline. Our records reflect that you have not paid the filing fees associated with the pro forma application.

In your request, you recite that on September 12, 2004, US Airways Group, Inc. (US Airways Group) and four of its wholly-owned subsidiaries, including Piedmont Airlines, Inc. (Piedmont), filed for bankruptcy in the Eastern District of Virginia (Bankruptcy Court). In connection with a request for waiver of pro forma application fees from another US Airways Group subsidiary (i.e., PSA Airlines, Inc. Debtor-in-Possession), you provided us with an "Order Granting Motion to Authorize the Debtors [including Piedmont] to Mail Initial Notices in Lieu of Submitting a Formatted Mailing Matrix" from the Bankruptcy Court dated September 13, 2004 (Bankruptcy Court Order). You state that with the filing of the bankruptcy petition, the status of US Airways Group and its subsidiaries, including Piedmont, was converted to debtors-in-possession. You state that in connection with the bankruptcy filing, on October 12, 2004, Piedmont DIP filed an application for the pro forma assignment of wireless licenses from Piedmont to Piedmont DIP. You state that "[i]n the absence of a waiver, the parties will be required to pay a total of . . . \$420.00 for all Commission bankruptcy-related applications." You assert that a waiver of the filing fees associated with the pro forma assignment application should be granted in light of the bankruptcy filing.¹

¹ You also note that the Commission granted Piedmont DIP special temporary authority to operate the various wireless aircraft licenses at issue here.

Section 1.1117 of the Commission's rules, 47 C.F.R. §1.1117, provides that filing fees may be waived upon a showing of good cause and a finding that the public interest will be served thereby. *See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 5 FCC Rcd 3558, 3572-73 (1990). We find that the Bankruptcy Court Order substantiates Piedmont's claim of financial hardship and demonstrates good cause for waiver of the filing fees. *See MobileMedia Corporation*, 14 FCC Rcd 8017, 8027 (1999) (bankruptcy establishes good cause for waiver of filing fee). Therefore, your request for waiver of the application filing fees in connection with Piedmont's application for the pro forma assignment of its wireless authorizations is granted.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", is written over a horizontal line.

Mark A. Reger
Chief Financial Officer



O'MELVENY & MYERS LLP

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October 13, 2004

OUR FILE NUMBER
882,605-118

BY HAND DELIVERY

Andrew S. Fischel
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

WRITER'S DIRECT DIAL
(202) 383-5280

WRITER'S E-MAIL ADDRESS
mw Walsh@omm.com

Re: *Piedmont Airlines, Inc., Debtor-in-Possession Petition for Waiver of
Application Fees Associated with Application File No. 0001898970*

Dear Mr. Fishel:

On behalf of Piedmont Airlines, Inc., Debtor-in-Possession ("Piedmont DIP"), we hereby submit and original and four (4) copies of the enclosed petition requesting a waiver of the fee requirements of §§ 1.1102 and §1.1117(e) of the Commission's Rules. Piedmont DIP respectfully requests that this waiver request be reviewed in association with the above-referenced application.

It is respectfully requested that you stamp the receive date on the enclosed copy marked "Stamp and Return" and return it to us for our files. Please contact the undersigned should any questions arise concerning this submission.

Sincerely,

Michael J. Walsh, Jr.
for O'MELVENY & MYERS LLP

Counsel to Piedmont Airlines, Inc., Debtor-in-
Possession

Enclosure

cc: Zenji Nakazawa (via email)

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

**PIEDMONT AIRLINES, INC., DEBTOR-IN
POSSESSION**

File No. 0001898970

Petition for Waiver of §1.1102 of the
Commission's Rules in Connection with
Application Filing Fees Associated with *Pro
Forma* Applications for Involuntary Assignment
for Various Wireless Licenses Pursuant to
§1.1117 of the Commission's Rules

To: Office of Managing Director

**PETITION FOR
WAIVER OF APPLICATION FILING FEES**

Piedmont Airlines, Inc., Debtor-in-Possession ("Assignee"), pursuant to §1.1117 of the Federal Communications Commission's ("Commission") Rules and by its attorneys, hereby seeks a waiver of 47 C.F.R. §1.1102, which requires the payment of application filing fees in connection with the above referenced application for *pro forma*, involuntary assignment of licenses ("Application"). See Exhibit 1. The Application was necessitated by Piedmont Airlines, Inc.'s ("Licensee") September 12, 2004 bankruptcy filing which resulted in Assignee's Debtor-in-Possession status. Licensee holds various wireless licenses used in connection with its operations as a commercial airline.

I. THE BANKRUPTCY

US Airways Group, Inc., ("Parent") filed voluntary petition forms along with four of its wholly owned subsidiaries for bankruptcy in the United States Bankruptcy Court, Eastern District of Virginia on September 12, 2004.¹ With these filings, the legal status of Parent and its subsidiaries was converted to "debtors-in-possession." The subsidiaries (other than MSC) hold various aircraft, aviation radio-navigation, aviation auxiliary group, and land mobile licenses granted to them by the Commission in connection with their operations as commercial airlines. The parties have filed separate applications for special temporary authority to allow the debtor-in-possession entities to continue to operate the aircraft licenses, and the Commission has granted them.² The Application was filed on October 12, 2004 and has been assigned file number 0001898970.

II. THE SECTION 1.1117 WAIVER IS IN THE PUBLIC INTEREST

Assignee requests that it not be required to pay the application filing fees that are associated with the Application. Section 1.1117 of the Commission's Rules provides that application filing fees may be "waived or deferred in specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest." 47 C.F.R. §1.1117(a). The Commission has previously granted a similar waiver request by the Assignee in connection with Parent's August 2002 bankruptcy filing. See File No. 0001024981. Accordingly, Assignee requests relief under this provision of the Commission's Rules.

In Mobile Media Corporation, et al., Memorandum Opinion & Order, 14 FCC Rcd 8017,

¹ See *In re US Airways Group, Inc., et al., Debtors*, Chapter 11 Case No. 04-13819 (SSM), Hon. Stephen S. Mitchell, Jointly Administered, United States Bankruptcy Court, Eastern District of Virginia. The entities that filed bankruptcy documents that gave them Debtor-in-Possession status were (1) Parent, (2) Licensee (3) USAirways, Inc., ("USAirways"), and (4) PSA Airlines, Inc. ("PSA"), and (5) Material Services Company, Inc. ("MSC"). MSC does not hold any FCC licenses. The referenced filings in the United States Bankruptcy Court are attached to the Application.

² See File Nos. 0001895067, 0001895056, 0001895034.

8027 (1999) (“Mobile Media”), the Commission waived application filing fees under §1.1117 of its Rules associated with the reorganization of a bankrupt paging carrier solely on the fact that its bankruptcy status served as “good cause” for waiver of application filing fees. The Commission also held that “waiver of the fee will serve the public interest by enabling [the carrier] to preserve assets that will accrue to innocent creditors.” *Id.* See also, *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion & Order, 10 FCC Rcd 12759, 12762 (1995) (“evidence of bankruptcy or receivership sufficient to establish financial hardship for purposes of waiving of regulatory fees”); *In the Matter of Daniel R. Goodman, Receiver; Dr. Robert Chan, Petition for Waiver of Sections 90.633(c) and 1.1102 of the Commission’s Rules*, Memorandum Opinion and Order, FCC 95-211 (rel. May 24, 1995).

In the present case, Assignee submits that the bankruptcy requires like treatment in the grant of the present waiver request. See *Melody Music, Inc. v. FCC*, 345 F.2d 730, 733 (D.C. Cir. 1965). As set forth above, Licensee has filed for Chapter 11 bankruptcy and has been awarded Debtor-in-Possession status. In the absence of a waiver, the parties will be required to pay a total of four hundred twenty dollars (\$420.00) for all Commission bankruptcy-related applications. This is another financial burden which, based on Commission precedent, should be avoided because of the bankruptcy, particularly because a *pro forma* transaction does not entail any real changes in control of the Licensee. As stated above, grant of this waiver would preserve funds better used to sustain operations and, as the Commission pointed out in *Mobile Media*, *supra*, this payment would direct monies from the innocent creditors whose claims are already compromised in the bankruptcy proceedings. Accordingly, Assignee requests grant of a waiver under §1.1117 of the Commission’s Rules.

* * * *

III. CONCLUSION

For all of the foregoing reasons, Assignee respectfully requests that the Commission grant this petition for waiver of the fee requirements of §§ 1.1102 and 1.1117(e) of the Commission's Rules in connection with the Application.

Respectfully submitted,

By: _____

Todd D. Rosenberg
Michael J. Walsh, Jr.

Counsel to Piedmont Airlines, Inc., Debtor-In-Possession

Dated: October 13, 2004

O'Melveny & Myers, LLP
1625 Eye Street, N.W.
Washington, D.C. 20006-4001
Telephone: (202) 383-5300
Facsimile: (202) 383-5414

EXHIBIT 1

See attached application.

FCC 603	FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control	Approved by OMB 3060 - 0800 See instructions for public burden estimate Submitted 10/12/2004 at 02:49PM File Number: 0001898970
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1) Application Purpose: Assignment of Authorization	
2a) If this request is for an Amendment or Withdrawal, enter the File Number of the pending application currently on file with the FCC.	File Number:
2b) File numbers of related pending applications currently on file with the FCC:	

Type of Transaction

3a) Is this a <i>pro forma</i> assignment of authorization or transfer of control? Yes
3b) If the answer to Item 3a is 'Yes', is this a notification of a <i>pro forma</i> transaction being filed under the Commission's forbearance procedures for telecommunications licenses? No
4) For assignment of authorization only, is this a partition and/or disaggregation? No
5a) Does this filing request a waiver of the Commission rules? If 'Yes', attach an exhibit providing the rule numbers and explaining circumstances. No
5b) If a feeable waiver request is attached, multiply the number of stations (call signs) times the number of rule sections and enter the result.
6) Are attachments being filed with this application? Yes
7a) Does the transaction that is the subject of this application also involve transfer or assignment of other wireless licenses held by the assignor/transferor or affiliates of the assignor/transferor(e.g., parents, subsidiaries, or commonly controlled entities) that are not included on this form and for which Commission approval is required? Yes
7b) Does the transaction that is the subject of this application also involve transfer or assignment of non-wireless licenses that are not included on this form and for which Commission approval is required? Yes

Transaction Information

8) How will assignment of authorization or transfer of control be accomplished? Court Order If required by applicable rule, attach as an exhibit a statement on how control is to be assigned or transferred, along with copies of any pertinent contracts, agreements, instruments, certified copies of Court Orders, etc.
9) The assignment of authorization or transfer of control of license is: Involuntary

Licensee/Assignor Information

10) FCC Registration Number (FRN): 0005562780			
11) First Name (if individual):	MI:	Last Name:	Suffix:
12) Entity Name (if not an individual): Piedmont Airlines, Inc.			
13) Attention To: Marshall Swaringen			
14) P.O. Box:	And / Or	15) Street Address: 5630 University Parkway	
16) City: Winston-Salem	17) State: NC	18) Zip Code: 27105	
19) Telephone Number: (336)744-4938	20) FAX Number: (336)744-6321		
21) E-Mail Address: Marshall_Swaringen@USAirways.com			

22) Race, Ethnicity, Gender of Assignor/Licensee (Optional)

Race:	American Indian or Alaska Native:	Asian:	Black or African-American:	Native Hawaiian or Other Pacific Islander:	White:
Ethnicity:	Hispanic or Latino:	Not Hispanic or Latino:			
Gender:	Female:	Male:			

Transferor Information (for transfers of control only)

23) FCC Registration Number (FRN):			
24) First Name (if individual):	MI:	Last Name:	Suffix:
25) Entity Name (if not an individual):			
26) P.O. Box:	And / Or	27) Street Address:	
28) City:		29) State:	30) Zip Code:
31) Telephone Number:		32) FAX Number:	
33) E-Mail Address:			

Name of Transferor Contact Representative (if other than Transferor) (for transfers of control only)

34) First Name:	MI:	Last Name:	Suffix:
35) Company Name:			
36) P.O. Box:	And / Or	37) Street Address:	
38) City:		39) State:	40) Zip Code:
41) Telephone Number:		42) FAX Number:	
43) E-Mail Address:			

Assignee/Transferee Information

44) The Assignee is a(n): Corporation			
45) FCC Registration Number (FRN): 0008389744			
46) First Name (if individual):	MI:	Last Name:	Suffix:
47) Entity Name (if other than individual): Piedmont Airlines, Inc., Debtor-In-Possession			
48) Name of Real Party in Interest:			49) TIN:
50) Attention To: Marshall Swaringen			
51) P.O. Box:	And / Or	52) Street Address: 5630 University Parkway	
53) City: Winston-Salem		54) State: NC	55) Zip Code: 27105
56) Telephone Number: (336)744-4938		57) FAX Number: (336)744-6321	
58) E-Mail Address: Marshall_Swaringen@USAirways.com			

Name of Assignee/Transferee Contact Representative (if other than Assignee/Transferee)

59) First Name: Todd	MI: D	Last Name: Rosenberg	Suffix:
60) Company Name: O'Melveny & Myers LLP			
61) P.O. Box:	And / Or	62) Street Address: 1625 Eye Street, NW	
63) City: Washington		64) State: DC	65) Zip Code: 20006
66) Telephone Number: (202)383-5300		67) FAX Number: (202)383-5414	
68) E-Mail Address: trosenberg@omm.com			

Alien Ownership Questions

69) Is the Assignee or Transferee a foreign government or the representative of any foreign government?	No
70) Is the Assignee or Transferee an alien or the representative of an alien?	No
71) Is the Assignee or Transferee a corporation organized under the laws of any foreign government?	No

72) Is the Assignee or Transferee a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	No
73) Is the Assignee or Transferee directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country? If 'Yes', attach exhibit explaining nature and extent of alien or foreign ownership or control.	No

Basic Qualification Questions

74) Has the Assignee or Transferee or any party to this application had any FCC station authorization, license or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license, construction permit denied by the Commission? If 'Yes', attach exhibit explaining circumstances.	No
75) Has the Assignee or Transferee or any party to this application, or any party directly or indirectly controlling the Assignee or Transferee, or any party to this application ever been convicted of a felony by any state or federal court? If 'Yes', attach exhibit explaining circumstances.	No
76) Has any court finally adjudged the Assignee or Transferee, or any party directly or indirectly controlling the Assignee or Transferee guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition? If 'Yes', attach exhibit explaining circumstances.	No
77) Is the Assignee or Transferee, or any party directly or indirectly controlling the Assignee or Transferee currently a party in any pending matter referred to in the preceding two items? If 'Yes', attach exhibit explaining circumstances.	No

78) Race, Ethnicity, Gender of Assignee/Transferee (Optional)

Race:	American Indian or Alaska Native:	Asian:	Black or African-American:	Native Hawaiian or Other Pacific Islander:	White:
Ethnicity:	Hispanic or Latino:	Not Hispanic or Latino:			
Gender:	Female:	Male:			

Assignor/Transferor Certification Statements

1) The Assignor or Transferor certifies either (1) that the authorization will not be assigned or that control of the license will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission consent is not required because the transaction is subject to streamlined notification procedures for <i>pro forma</i> assignments and transfers by telecommunications carriers. See <i>Memorandum Opinion and Order</i> , 13 FCC Rcd. 6293(1998).			
2) The Assignor or Transferor certifies that all statements made in this application and in the exhibits, attachments, or in documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.			
79) Typed or Printed Name of Party Authorized to Sign			
First Name: Elizabeth	MI: K	Last Name: Lanier	Suffix:
80) Title: VP – General Counsel			

EXHIBIT 1

DESCRIPTION OF TRANSACTION

Piedmont Airlines, Inc., Debtor-in-Possession ("Assignee") hereby submits its application for *pro forma* assignment of the licenses issued to Piedmont Airlines, Inc. ("Licensee") by the Federal Communications Commission ("Commission") (the "Application"). As described below, the Application is filed in accordance with Section 1.948(c)(2) of the Commission's Rules, which requires that *pro forma* applications for assignment or transfer of control be filed when a licensee is subject to an involuntary change of ownership such as bankruptcy. As the Commission's Rules require that such applications be filed no later than 30 days after the event causing the involuntary assignment or transfer, the Application is timely filed.

US Airways Group, Inc., ("Parent") filed a petition for relief under Chapter 11 of Title 11 of the United States Code along with three of its wholly owned subsidiaries in the United States Bankruptcy Court, Eastern District of Virginia, on September 12, 2004.¹ With these filings, the legal status of each of Parent, Licensee, US Airways, and PSA (collectively, the "Subsidiaries") was converted to "Debtor-in-Possession." The Subsidiaries currently hold radio licenses granted to them by the Commission used in connection with their operations as commercial airlines.

The Applications are necessary under the Commission's Rules simply to reflect the *pro forma* change in the status of the Licensee to Debtor-in-Possession pursuant to federal bankruptcy law. The bankruptcy proceeding does not change the ownership or management of

¹ See *In re US Airways Group, Inc., et al., Debtors*, Chapter 11 Case No. 04-13819 (SSM), Hon. Stephen S. Mitchell, Jointly Administered, United States Bankruptcy Court, Eastern District of Virginia. The entities that filed bankruptcy documents that gave them Debtor-in-Possession status were (1) Parent, (2) Licensee (3) USAirways, Inc. ("USAirways"), (4) PSA Airlines, Inc. ("PSA"), and (5) Material Services Company, Inc. ("MSC"). MSC does not hold any FCC licenses.

the Licensee. This filing is made within 30 days of the September 12, 2004 bankruptcy filing and thus, it is timely filed pursuant to Section 1.948(c)(2).²

Pursuant to Section 1.1117 of the Commission's Rules, the parties are also filing a Petition for Waiver of Application Filing Fees & Deferral of Payment with the office of the Managing Director with respect to the application filing fees required in connection with the Application. A copy of the petition (which will be filed subsequently) is attached to the Application.

² The certifications made by Licensee and Assignee in the Application are qualified by the statements contained in this Exhibit 1 to the extent necessary.